

CRIMINAL PROCEEDINGS

THE COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
SUMMARY CONVICTION APPEALS

Interpretation

1 In these Rules:

“appeal” means an appeal from a summary conviction court under Part XXVII of the *Criminal Code*, R.S.C. 1985, c. C, and *The Summary Offences Procedure Act, 1990*, S.S. 1990-91, c. S.1, as amended from time to time; (*appel*)

“appeal court” means the Court of Queen’s Bench for Saskatchewan; (*tribunal d’appel*)

“authority” means:

- (a) a municipality;
- (b) the Meewasin Valley Authority;
- (c) the Wakamow Valley Authority;
- (d) the Wascana Centre Authority;
- (e) the University of Regina; or
- (f) the University of Saskatchewan; (*autorité*)

“file” means file with a local registrar; (*déposer*)

“Form” mean a Form as set out in the Appendix to these Rules; (*formule*)

“judge” means a judge of the appeal court; (*judge*)

“local registrar” includes a deputy local registrar of the appeal court; (*registraire local*)

“prosecutor” means;

- (a) with respect to an appeal in respect of an offence under the *Criminal Code*, a prosecutor as defined in section 2 of the *Criminal Code*;
- (b) with respect to an appeal in respect of an offence under an Act of Saskatchewan or a regulation made pursuant to an Act of Saskatchewan, the following persons, including counsel or an agent acting on behalf of any of them:
 - (i) the Attorney General for Saskatchewan; or
 - (ii) if the Attorney General for Saskatchewan does not intervene, the informant or person who issued the ticket for the offence;

(c) with respect to an appeal in respect of an offence under an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada, the following persons, including counsel or an agent acting on behalf of any of them:

(i) the Attorney General of Canada; or

(ii) if the Attorney General of Canada does not intervene, the informant or person who issued the ticket for the offence;

(d) with respect to an appeal in respect of a bylaw of an authority, the authority and includes anyone authorized by the authority to prosecute bylaws on its behalf. (*poursuivant*)

Appeal by defendant

2(1) A defendant who commences an appeal shall file with the local registrar nearest to the place where the decision was made a Notice of Appeal in Form 1 in accordance with the instructions on that form.

(2) The defendant shall commence the appeal under this Rule within 30 days after the pronouncement of the order under appeal, or within 30 days after the imposition of sentence if a sentence has been imposed, whichever is later.

(3) The defendant shall state their address for service on the Notice of Appeal, including:

(a) their telephone number; and

(b) if applicable, their fax number and email address.

(4) After filing a Notice of Appeal, the defendant shall notify the local registrar in writing of any change to that information.

(5) Filing of the Notice of Appeal with the local registrar constitutes service on the prosecutor.

(6) The local registrar shall forward a copy of the Notice of Appeal to the prosecutor.

Appeal by prosecutor

3(1) A prosecutor who commences an appeal shall file with the local registrar nearest to the place where the decision was made a Notice of Appeal in Form 2 in accordance with the instructions on that form.

(2) The prosecutor shall commence the appeal under this Rule within 30 days after the pronouncement of the order under appeal, or within 30 days after the imposition of sentence if a sentence has been imposed, whichever is later.

(3) The prosecutor shall state their address for service on the Notice of Appeal, including:

(a) their telephone number; and

(b) if applicable, their fax number and email address.

(4) The prosecutor shall serve the defendant with the Notice of Appeal not later than 10 days after it is filed with the local registrar.

Service on defendant

4(1) The prosecutor shall serve the Notice of Appeal and any other document required to be served on the defendant by personal service.

(2) The prosecutor shall file proof of service with the local registrar.

(3) If the prosecutor is unable to serve the Notice of Appeal or any other document that is required to be served on the defendant personally, the prosecutor may apply *ex parte* to a judge of the appeal court for an order to serve the defendant in the manner that the appeal court directs.

(4) If the prosecutor serves the Notice of Appeal or any other document that is required to be served in accordance with an order for substituted service, the defendant is deemed to have been served with that document.

(5) On the application of the defendant or prosecutor, the appeal court may:

(a) set aside or vary an order for substituted service as the appeal court considers just; and

(b) make any order respecting service of either or both of the Notice of Appeal and any other document.

Material from summary conviction court

5 After the Notice of Appeal has been filed, the local registrar shall obtain the material provided for in subsection 821(1) of the *Criminal Code* from the summary conviction court.

Transcripts

6(1) Within 14 days after serving the Notice of Appeal, the appellant shall furnish to the local registrar proof, satisfactory to the local registrar, that transcripts of the trial proceedings have been ordered.

(2) Subrule (1) does not apply if the appellant has applied under Rule 8 for a trial *de novo*.

Transcript of evidence

7 Unless the appeal court otherwise orders, or an agreed statement of facts has been filed pursuant to subsection 830(2) of the *Criminal Code*, the appellant shall, within 10 days after receipt of the transcript,

(a) if the appeal is against an order other than sentence;

(i) file:

(A) the original and one copy of the transcript of evidence; and

(B) the reasons for judgment from the summary conviction court; and

(ii) serve one copy of the transcript of evidence and the reasons for judgment on the respondent;

- (b) if the appeal is against sentence:
 - (i) file:
 - (A) the transcript of evidence, if any, of the sentencing proceedings, including the submissions of the prosecution and the defence as to sentence; and
 - (B) the reasons for sentence, and
 - (ii) serve one copy of the transcript of evidence mentioned in clause (i)(A) and the reasons for sentence on the respondent; or
- (c) if the appeal is against both sentence and an order other than sentence, file and serve on the respondent the material mentioned in paragraphs (a) and (b) within 10 days after receipt of the transcript.

Application for trial *de novo*

8(1) An appellant who applies for a trial *de novo* under subsection 822(4) of the *Criminal Code* shall submit a Notice of Application to the appeal court within 30 days after serving the Notice of Appeal.

(2) At least seven days before the hearing of the application, the appellant shall serve a copy of the Notice of Application and any supporting material on the respondent.

Date, time and place of hearing

9(1) The appellant is not required to state a date, time or place for the hearing of the appeal in a Notice of Appeal.

(2) On receipt of the material required to be transmitted by the summary conviction court pursuant to subsection 821(1) of the *Criminal Code* and a transcript of the evidence, unless dispensed with by order of the appeal court, the local registrar shall set a date, time and place for the hearing of the appeal.

Notice of date, time and place of hearing

10 As soon as the appeal is set for hearing, the local registrar of the appeal court shall give notice to the appellant and to the respondent that the appeal has been set down for hearing as well as notice of the date and time when, and the place where, the appeal will be heard.

Memorandum of argument required

11 Unless the appeal court otherwise orders, the appellant and respondent shall each file a memorandum of argument with the local registrar.

Appellant's memorandum of argument

12 The appellant's memorandum of argument shall be in Form 3 and shall contain the following information:

- (a) **Part 1 Introduction:** The appellant's brief summary of the context for the appeal;

- (b) **Part 2 Jurisdiction and Standard of Review:** The appellant shall state its position on each of the following matters:
- (i) the source of the right of appeal;
 - (ii) the jurisdiction of the court to determine the appeal; and
 - (iii) the applicable standard of appellate review;
- (c) **Part 3 Summary of Facts:** The appellant shall concisely state the facts;
- (d) **Part 4 Points in Issue:** The appellant shall concisely state the points in issue in the appeal;
- (e) **Part 5 Argument:** The appellant's argument setting out precisely the points of law or fact to be argued and the basis for the argument, with reference to the page and line of the transcript and the authorities relied on in support of each point. Any statute, regulation, rule, ordinance, bylaw or part thereof relied upon shall be copied as an appendix to the memorandum or separately filed;
- (f) **Part 6 Relief:** The precise order the appellant desires the court to make; and
- (g) **Part 7 Authorities:** A table of authorities relied upon by the appellant, arranged alphabetically. Citations shall be done in compliance with the *Citation Guide for the Courts of Saskatchewan*.

New. Gaz. 26 Jne 2015.

Respondent's memorandum of argument

13 The respondent's memorandum of argument shall be in Form 4 and shall contain the following information:

- (a) **Part 1 Introduction:** The respondent's brief summary of the context for the appeal;
- (b) **Part 2 Jurisdiction and Standard of Review:** The respondent shall state its position on each of the following matters:
- (i) the source of the right of appeal;
 - (ii) the jurisdiction of the court to determine the appeal; and
 - (iii) the applicable standard of appellate review;
- (c) **Part 3 Summary of Facts:** The respondent shall concisely accept, modify or supplement the appellant's statement of facts as required;
- (d) **Part 4 Points in Issue:** The respondent shall accept or respond to each point in issue raised in the appellant's memorandum and add such additional points as it wishes to raise. The respondent shall state any intention and the reasons to argue the judgment should be upheld, in whole or in part, for reasons not found in the judgment and not raised in the appellant's memorandum;

- (e) **Part 5 Argument:** The respondent's argument, setting out concisely the points of law or fact to be argued and the basis for the argument, with reference to the page and line of the transcript and the authorities relied on in support of each point. Any statute, regulation, rule, ordinance, bylaw or part thereof relied upon shall be copied as an appendix to the memorandum or separately filed;
- (f) **Part 6 Relief:** The precise order the respondent desires the court to make; and
- (g) **Part 7 Authorities:** A table of authorities relied upon by the respondent, arranged alphabetically. Citations shall be done in compliance with the *Citation Guide for the Courts of Saskatchewan*.

New. Gaz. 26 Jne 2015.

Service by appellant

14 At least 30 days before the date set for the hearing of the appeal, the appellant shall file their memorandum of argument and serve a copy on the respondent.

Service by respondent

15 At least 15 days before the date set for the hearing of the appeal, the respondent shall file their memorandum of argument and serve a copy on the appellant.

Application to dismiss appeal

16(1) The respondent may apply to the appeal court for an order that the appeal be dismissed if the appellant fails to:

- (a) pursue the appeal diligently; or
- (b) comply with these Rules.

(2) The respondent shall serve the appellant with 14 days' notice of the date, time and place of the hearing of the application.

Reference to appeal court

17 If the local registrar considers that the appellant has not pursued the appeal diligently or has not complied with these Rules, the local registrar may refer the matter to the appeal court.

Notice of reference

18 If the local registrar makes a reference under Rule 17, the local registrar shall serve the appellant and the respondent with 14 days' notice of the date, time and place of the hearing of the reference, by mailing the notice to each party's address for service.

Order of appeal court

19 On an application under Rule 16 or a reference under Rule 17, the appeal court may dismiss the appeal or make any other order it considers just.

Power of court if appellant fails to file memorandum or to appear

20 If an appellant fails to file a memorandum of argument as required by Rule 14 and fails to appear at the hearing on the date and at the time and place set out in the notice given by the local registrar under Rule 10, the appeal court may dismiss the appeal or make any other order it considers just.

Abandonment

21 An appellant may abandon an appeal by

- (a) signing and filing a notice in Form 5; or
- (b) informing the appeal court in person or by counsel that the appeal is abandoned.

Time limits

22 Any judge may, on application, extend or shorten the time provided for the giving of any notice or the doing of any act, even if an application for extension or an order granting an extension is made after the time has expired.

Application for release or stay

23 An appellant who applies for release, a stay of a probation order, a stay of a driving prohibition, or any other stay order, shall file with the local registrar:

- (a) a Notice of Application in Form 6;
- (b) an affidavit verifying the facts on which the appellant relies in support of the application; and
- (c) any other material on which the appellant relies in support of the application.

Service of application on prosecutor

24 On filing an application under Rule 23, the appellant shall serve the application and accompanying material on the prosecutor.

Notice of hearing

25 If an appellant applies pursuant to Rule 23, the local registrar shall:

- (a) within three days after receiving the material from the appellant, set a date for the hearing of the application; and
- (b) notify the appellant and the respondent of the date and time when, and the place where, the hearing will be held.

When appeal court may make orders re application without prosecutor

26 With the written consent of the prosecutor, the appeal court may make any order on an application pursuant to Rule 23 without the attendance of the prosecutor.

General procedure and practice of appeal court to be followed

27 Unless provided otherwise by statute or by these Rules, the general procedure and practice of the appeal court shall be applied, with necessary modification, in a summary conviction appeal, including an application to dismiss an appeal and an application for release or stay.

Repeal

28 *The Saskatchewan Court of Queen's Bench Summary Conviction Appeal Rules* are repealed.

Coming into effect

29 These Rules come into effect on April 1, 2011.

APPENDIX

FORM 1

(NOTICE OF APPEAL BY DEFENDANT)

Q.B.G. No. _____ of 20_____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

NOTICE OF APPEALTHE APPELLANT hereby appeals from: *(check one of the following)*

- the order made;
- the conviction entered;
- the sentence imposed; or
- both the conviction entered and the sentence imposed;

in the Summary Conviction Court.

Information About the Conviction and/or Sentence Under Appeal:

1. Name of Summary Conviction Court
2. Location of Summary Conviction Court
3. Name of Presiding Judge or Justice in Summary Conviction Court
4. Date on which the Conviction was Entered
5. Description of Conviction Entered (state fully offence(s) on which convicted)
6. Date on which the Sentence was Imposed
7. Description of Sentence Imposed

Grounds of Appeal: *(set out briefly the basis of the Appeal)*

Order Sought: *(set out briefly what order the Appellant is seeking)*

Information About the Appellant:

1. The Appellant is: *(check one of the following)*

incarcerated at _____ ; or

not incarcerated.

2. The Appellant: *(check one of the following)*

will be represented by a lawyer on the Appeal; or

will not be represented by a lawyer on the Appeal.

3. The Appellant wishes to present the Appeal: *(check one of the following)*

by memorandum of argument; or

by oral presentation and by memorandum of argument.

4. The Appellant's address for service is:

(include telephone number, email address and fax number if applicable)

DATED at _____, Saskatchewan, this _____ day of _____, 20_____.

(Signature of Appellant or Appellant's Lawyer)

TO: The Local Registrar of the Judicial Centre of _____

This document was delivered by: _____

(name, address, telephone number, fax number and email address of appellant or appellant's lawyer)

FORM 2

(NOTICE OF APPEAL BY PROSECUTOR)

Q.B.G. No. _____ of 20____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

NOTICE OF APPEALTHE APPELLANT hereby appeals from: *(check one of the following)*

- the order made;
- the dismissal order made;
- the sentence imposed; or
- both the dismissal order made and the sentence imposed;

in the Summary Conviction Court.

Information About the Conviction and/or Sentence Under Appeal:

1. Name of Summary Conviction Court
2. Location of Summary Conviction Court
3. Name of Presiding Judge or Justice in Summary Conviction Court
4. Date on which the Order was Made
(complete if Appeal relates to order or dismissal order)
5. Description of Order Made
(if dismissal order, state fully the offence or offences charged in the information dismissed)
6. Date on which the Sentence was Imposed
(complete if Appeal relates to sentence imposed)
7. Description of Sentence Imposed

Grounds of Appeal: *(set out briefly the basis of the Appeal)*

Order Sought: *(set out briefly what order the Appellant is seeking)*

Information About the Appellant:

1. The Appellant wishes to present the Appeal: *(check one of the following)*

by memorandum of argument; or

by oral presentation and by memorandum of argument.

2. The Appellant's address for service is:

(include telephone number, email address and fax number if applicable).

DATED at _____, Saskatchewan, this ____ day of _____, 20 ____.

(Signature of Prosecutor)

TO: The Respondent, _____

AND TO: The Local Registrar of the Judicial Centre of _____

This document was delivered by: _____

(name, address, telephone number, fax number and email address of appellant or appellant's lawyer)

FORM 3

Q.B.G. No. _____ of 20 _____

IN THE COURT OF QUEEN'S BENCH
 JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND:

RESPONDENT

APPELLANT'S MEMORANDUM OF ARGUMENT

1. **Introduction:**
2. **Jurisdiction and Standard of Review:**
3. **Summary of Facts:**
4. **Points in Issue:**
5. **Argument:**
6. **Relief:**
7. **Authorities**

DATED at _____, Saskatchewan, this ____ day of _____, 20__.

*(Signature of Appellant or
 Appellant's Lawyer)*

TO: The Local Registrar of the Judicial Centre of _____

AND TO: The Respondent, _____

This document was delivered by: _____

*(name, address, telephone number, fax number and email address of appellant or appellant's
 lawyer)*

FORM 4

Q.B.G. No. _____ of 20 _____

IN THE COURT OF QUEEN'S BENCH
 JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND:

RESPONDENT

RESPONDENT'S MEMORANDUM OF ARGUMENT

1. **Introduction:**
2. **Jurisdiction and Standard of Review:**
3. **Summary of Facts:**
4. **Points in Issue:**
5. **Argument:**
6. **Relief:**
7. **Authorities**

DATED at _____, Saskatchewan, this ____ day of _____, 20__.

*(Signature of Respondent or
 Respondent's Lawyer)*

TO: The Local Registrar of the Judicial Centre of _____

AND TO: The Appellant, _____

This document was delivered by: _____

*(name, address, telephone number, fax number and email address of appellant or appellant's
 lawyer)*

FORM 5

Q.B.G. No. _____ of 20 _____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

NOTICE OF ABANDONMENT

THE APPELLANT hereby abandons this appeal.

DATED at _____, Saskatchewan, this ____ day of _____, 20 _____.

(Signature of Appellant or Appellant's Lawyer)

[if this document is signed by the Appellant, the attached Affidavit of Execution must also be completed]

This notice was signed by the Appellant in the presence of:

(subscribing witness)

(print name of subscribing witness)

TO: The Local Registrar of the Judicial Centre of _____

This document was delivered by: _____.
(name, address, telephone number, fax number and email address of appellant or appellant's lawyer)

AFFIDAVIT OF EXECUTION

I, _____, of _____,
in the Province of _____,

MAKE OATH AND SAY:

1. That I was personally present and did see _____,
the Appellant named in the Notice of Abandonment, who is personally known to me to
be the person named in it, duly sign and execute the Notice of Abandonment;
2. That the Notice was executed at _____,
in the Province of _____
and that I am a subscribing witness to it;
3. That I know the said _____ and he/she is in my belief
eighteen years of age or more.

SWORN BEFORE ME AT _____ in the Province of Saskatchewan,
this _____ day of _____, 20_____.

A Commissioner for Oaths

In and for the Province of Saskatchewan.

My commission expires: _____

OR

Being a Solicitor.

FORM 6

Q.B.G. No. _____ of 20____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

NOTICE OF APPLICATION

TAKE NOTICE that the Appellant will make an application at the Court House, Judicial Centre of _____, Saskatchewan, at a date and time to be set by the Local Registrar, for an Order that:

(check one or more of the following)

- the appellant be released from custody;
- the probation order in this matter be stayed; or
- the driving prohibition in this matter be stayed pending the determination of the Appellant's Appeal.

(if the appellant seeks an order other than one mentioned above, the appellant must here set out the nature of the stay order sought)

AND TAKE NOTICE that the application will be made on the following grounds:

(briefly state grounds for application)

AND FURTHER TAKE NOTICE that in support of the said application will be read this Notice of Application, Affidavit of _____

and proof of service where necessary, all filed.

DATED at _____, Saskatchewan, this ____ day of _____, 20____.

(Signature of Appellant or Appellant's lawyer)

TO: The Local Registrar of the Judicial Centre of _____

AND TO: The Respondent _____

This document was delivered by: _____.
(name, address, telephone number, fax number and email address of appellant or appellant's lawyer)